



Substitute Senate Bill No. 310

Public Act No. 08-33

AN ACT CLARIFYING THE SALE OF SPECIAL HEALTH CARE PLANS FOR SMALL EMPLOYERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-565 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) In order to facilitate the provision of lower cost health insurance coverage for uninsured small employers, the board shall establish, subject to the approval of the commissioner, [two] special health care plans [, one for use by health care centers and one] for use by [other small employer carriers] the Health Reinsurance Association. The board shall submit such [plan] plans to the commissioner for [his] the commissioner's approval. [within ninety days after the appointment of the board pursuant to section 38a-569.] The board shall take into consideration the levels of health care plans provided in Connecticut [, including those provided by health care centers, as appropriate,] and such medical and economic factors as may be deemed appropriate and shall establish benefit levels, deductibles, coinsurance factors, maximum copayment obligations and exclusions and limitations which the board considers appropriate for uninsured small employers, provided the level of reimbursement shall be based

Substitute Senate Bill No. 310

on the reimbursement rate. [Benefit] Such plans may include cost containment features such as, but not limited to: (A) Preferred provider provisions; (B) utilization review of health care services, including review of medical necessity of hospital and physician services; (C) case management benefit alternatives; and (D) other managed care provisions. [The special health care plan established for use by health care centers shall be consistent with the basic method of operation and the benefit plans of health care centers.]

(2) After the commissioner's approval of special health care plans submitted by the board pursuant to subdivision (1) of this subsection, and in lieu of the procedure established by section 38a-481, [any small employer carrier] the Health Reinsurance Association may certify to the commissioner, in the form and manner prescribed by the commissioner, that the special health care plans filed by [the carrier are] said association are in substantial compliance with the provisions in the corresponding approved board plan. Upon receipt by the department of such certification, [the carrier] said association may [use] offer such certified plans until such time as the commissioner, after notice and hearing, disapproves their continued use.

(b) (1) [Within] Not later than ninety days after approval by the commissioner of the special health care plans submitted by the board, [every small employer carrier] the Health Reinsurance Association shall [, as a condition of transacting such business in this state,] offer small employers [a special health care plan, provided no small employer carrier may be required to offer a special health care plan to a small employer with ten or fewer eligible employees, the majority of whom are low-income eligible employees. Such employers may purchase a special health care plan from the Health Reinsurance Association pursuant to section 38a-570. Small employer carriers that do not offer special health care plans to such employers shall refer those employers to the Health Reinsurance Association] such plans.

Substitute Senate Bill No. 310

Except as provided in subdivision (2) of this subsection, every small employer [which] that elects to be covered under a special health care plan and agrees to make the required premium payments and to satisfy the other provisions of the plan shall be issued such a plan by [the small employer carrier or] the Health Reinsurance Association. [, as the case may be.]

(2) No small employer [may] shall be eligible to purchase a special health care plan unless such employer had maintained no health insurance coverage for its employees at any time during the one-year period ending on the date of application for such policy. No small employer [may] shall purchase a special health care plan for more than three years.

[(3) In addition to any other requirements related to the establishment of premiums for special health care plans issued by small employer carriers to small employers, (A) the anticipated loss ratio shall not be less than seventy-five per cent of the premium, and (B) small employer carriers shall file annually by the end of March of each year information with the Insurance Department with respect to such plans for the prior calendar year including the number of plans issued, the anticipated loss ratio, the premiums earned, the paid and estimated outstanding claims, expenses charged, and such other information as the commissioner deems necessary to assure compliance with subparagraph (A) of this subdivision.

(4) A health care center shall not be required to offer coverage or accept applications pursuant to subdivision (1) of this subsection in the case of any of the following: (A) To a group, where the group is not physically located in the health care center's approved service area; (B) to an employee, where the employee does not work or reside within the health care center's approved service area; (C) within an area where the health care center reasonably anticipates, and demonstrates to the satisfaction of the commissioner, that it will not have the

Substitute Senate Bill No. 310

capacity within that area in its network of providers to deliver services adequately to the members of such groups because of its obligations to existing group contract holders and enrollees; (D) where the commissioner finds that acceptance of an application or applications would place the health care center in an impaired financial condition; or (E) to groups of fewer than three eligible employees, where the health care center does not utilize preexisting condition provisions in the plans it issues to any small employers. A health care center that refuses to offer coverage pursuant to subparagraph (C) of this subdivision may not, for ninety days after such refusal, offer coverage in the applicable area to new cases of employer groups with more than twenty-five eligible employees.

(5) A small employer carrier shall not be required to offer coverage or accept applications pursuant to subdivision (1) of this subsection subject to the following conditions: (A) The small employer carrier ceases to market health insurance or health benefit plans to small employers and ceases to enroll small employers under existing health insurance or health benefit plans; (B) the small employer carrier notifies the commissioner of its decision to cease marketing to small employers and to cease enrolling small employers, as provided in subparagraph (A) of this subdivision; and (C) the small employer carrier is prohibited from reentering the small employer market for a period of five years from the date of the notice required under subparagraph (B) of this subdivision.]

(c) Insurers may issue individual special health care plans subject to the laws applicable to individual health insurance in this state, provided such policies shall be identical to the individual special health care plans made available by the Health Reinsurance Association pursuant to section 38a-571, as amended by this act.

Sec. 2. Subdivision (10) of section 38a-567 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from*

Substitute Senate Bill No. 310

passage):

(10) If a small employer carrier denies coverage as requested to a small employer that is self-employed, the small employer carrier shall promptly offer [the] such small employer the opportunity to purchase a [special health care plan or a] small employer health care plan. [, as appropriate.] If a small employer carrier or any producer representing that carrier fails, for any reason, to offer [such] coverage as requested by a small employer that is self-employed, that small employer carrier shall promptly offer [the] such small employer an opportunity to purchase a [special health care plan or a] small employer health care plan. [, as appropriate.]

Sec. 3. Subdivision (18) of section 38a-567 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(18) Each small employer carrier shall maintain at its [principle] principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrates that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles. Each small employer carrier shall file with the commissioner annually, on or before March fifteenth, an actuarial certification certifying that the carrier is in compliance with this part and that the rating methods have been derived using recognized actuarial principles consistent with the provisions of sections 38a-564 to 38a-573, inclusive. Such certification shall be in a form and manner and shall contain such information, as determined by the commissioner. A copy of the certification shall be retained by the small employer carrier at its principle place of business. Any information and documentation described in this subdivision but not subject to the filing requirement shall be made available to the commissioner upon his request. Except

Substitute Senate Bill No. 310

in cases of violations of sections 38a-564 to 38a-573, inclusive, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the commissioner to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

Sec. 4. Subsection (d) of section 38a-566 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) A small employer carrier [which] that ceases marketing to small employers as provided in [subdivision (6) of subsection (b) of section 38a-565 may] subsection (d) of section 38a-568 shall not cease enrolling new employers in a policy issued to provide coverage to the members of a trade association or to a trust on behalf of a trade association if the following conditions exist:

(1) Such trade association is a not-for-profit trade association qualified under 26 USC Section 501c(6), was not formed solely for the purpose of providing insurance and has been operating continuously for at least twenty-five years.

(2) The policy issued to or on behalf of such association was in existence prior to June 1, 1990, and has annual premiums of less than twenty-five million dollars.

(3) Such policy is offered on a guaranteed issue basis to all small employer members and only to members of such trade association.

Sec. 5. Section 38a-571 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

In addition to the options for individual comprehensive health care plans, the Health Reinsurance Association shall make available to individuals, on the same terms and conditions as are applicable to the

Substitute Senate Bill No. 310

other individual comprehensive health care plan options under sections 38a-505, 38a-546 and 38a-551 to 38a-559, inclusive, including the provisions for establishment and filing of premium rates, the option to purchase an individual special health care plan identical to the special health care plan for small employers established in accordance with section 38a-565 of the 2008 supplement to the general statutes, as amended by this act. The requirement that coverage not have been maintained for a [two-year] one-year period contained in subdivision (2) of subsection [(c)] (b) of section 38a-565 of the 2008 supplement to the general statutes, as amended by this act, shall not apply to individual special health care plans.

Sec. 6. Section 38a-572 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No individual or organization [which] that provides medical advice, diagnosis, care or treatment of a type [which is] covered under a special health care [plans may,] plan, as defined in section 38a-565 of the 2008 supplement to the general statutes, as amended by this act, or section 38a-570, shall, on or after July 1, 1990, provide such service to any person in this state unless such individual or organization [would, upon request, provide] provides such service, upon request, on the basis of the applicable reimbursement rate, to low-income eligible employees or their dependents covered under such special health care plans or low income individuals or their dependents covered under individual special health care plans, as defined in section 38a-571, as amended by this act.

Approved May 7, 2008